

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
NW DEV GROUP, LLC ZONE CHANGE REQUEST
ZONING MAP AMENDMENT REPORT (#FZC-16-03)
MAY 25, 2016

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by NW Dev Group, LLC for a zoning map amendment in the Evergreen Zoning District. The proposed amendment would change the zoning of the subject property from 'SAG-10 Suburban Agricultural' to 'R-4 Two Family Residential.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on June 8, 2016 at 6:00 P.M. in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 1st Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment.

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West in Kalispell. Prior to the Commissioner's public hearing, documents will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the June 8, 2016 Flathead County Planning Board review of the proposal.

B. Commission

This space will contain an update regarding the Flathead County Commission review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner/Applicants

NW Dev Group, LLC
4260 Galewood St. Ste. B
Lake Oswego, OR 97035

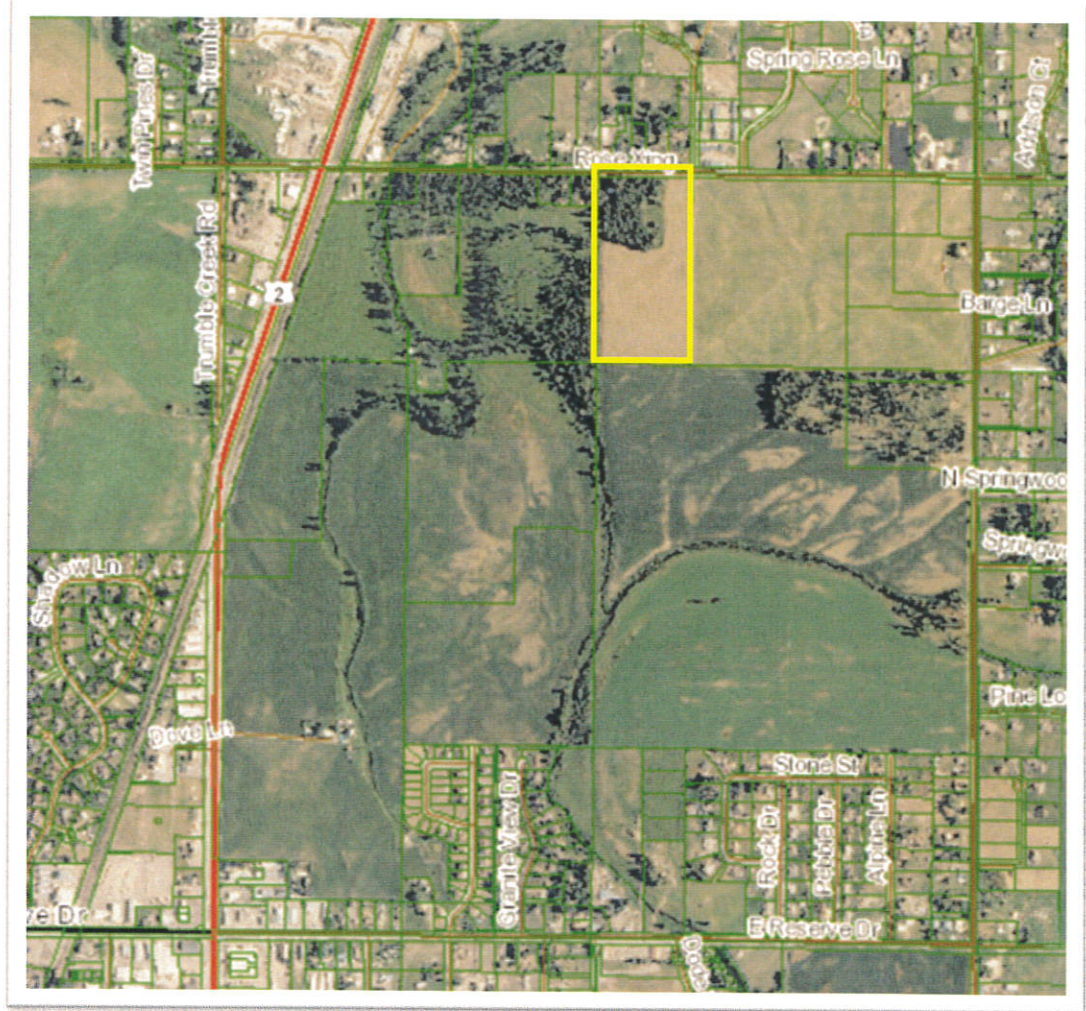
ii. Technical Assistance

Sands Surveying
C/o Erica Wirtala
2 Village Loop
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property consists of one tract totaling 19.1 acres in size and is located at 988 Rose Xing, and less than a ¼ mile east of U.S. Highway 2 (see Figure 1). The property can legally be described as The West Half of the Northwest Quarter of the Northwest Quarter of Section 27, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property highlighted in yellow



C. Proposed Zoning Map Amendment

The subject property is located within the Evergreen Zoning District and is currently zoned 'SAG-10 Suburban Agricultural' (see Figure 2 below). The SAG-10 designation is defined in Section 3.07 of the Flathead County Zoning Regulations (FCZR) as a, *'District to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.'*

As depicted in Figure 3 below, the applicant has requested the zoning map amendment for the property to be zoned 'R-4 Two Family Residential,' defined in Section 3.12 FCZR as a, *'District to provide lot areas for urban residential development. Development within the district will require all public utilities and all community facilities. A duplex is allowed in this district.'*

Figure 2: Current zoning applicable to subject property (highlighted in blue)

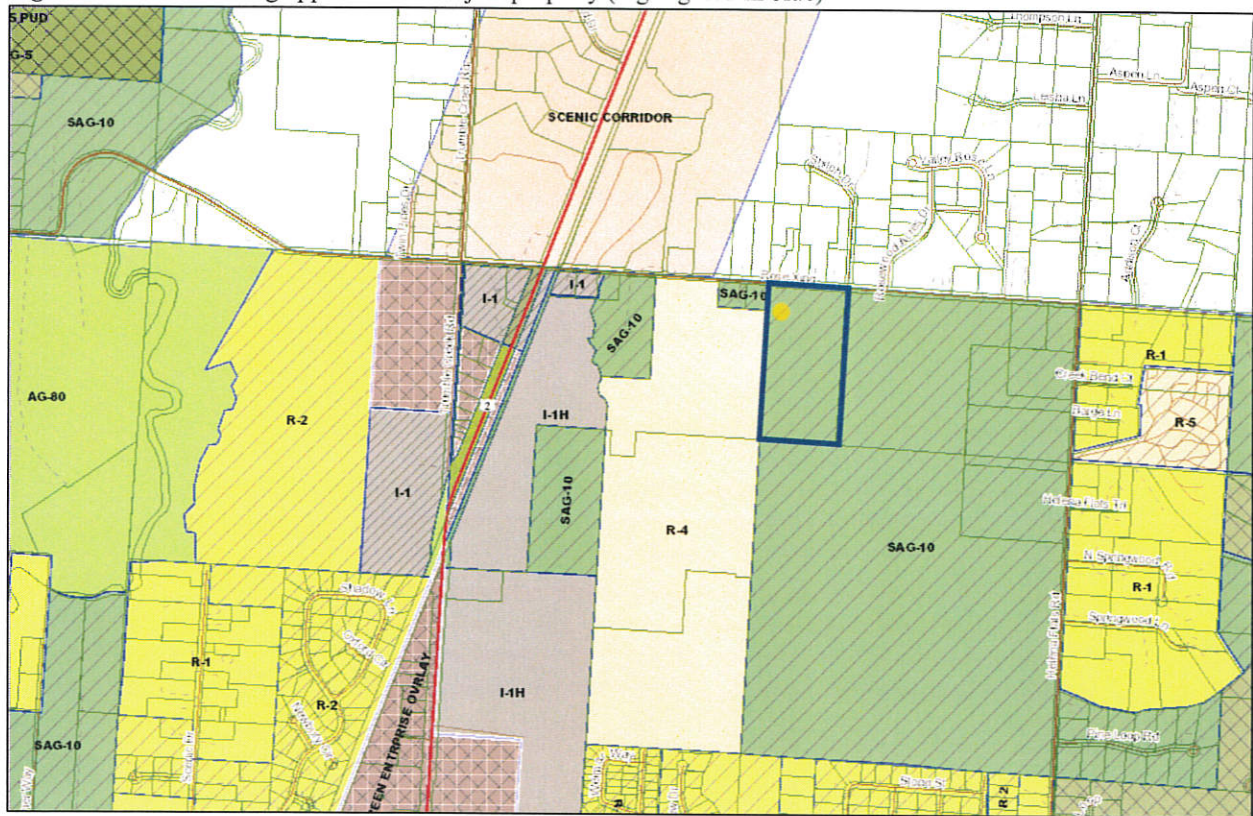
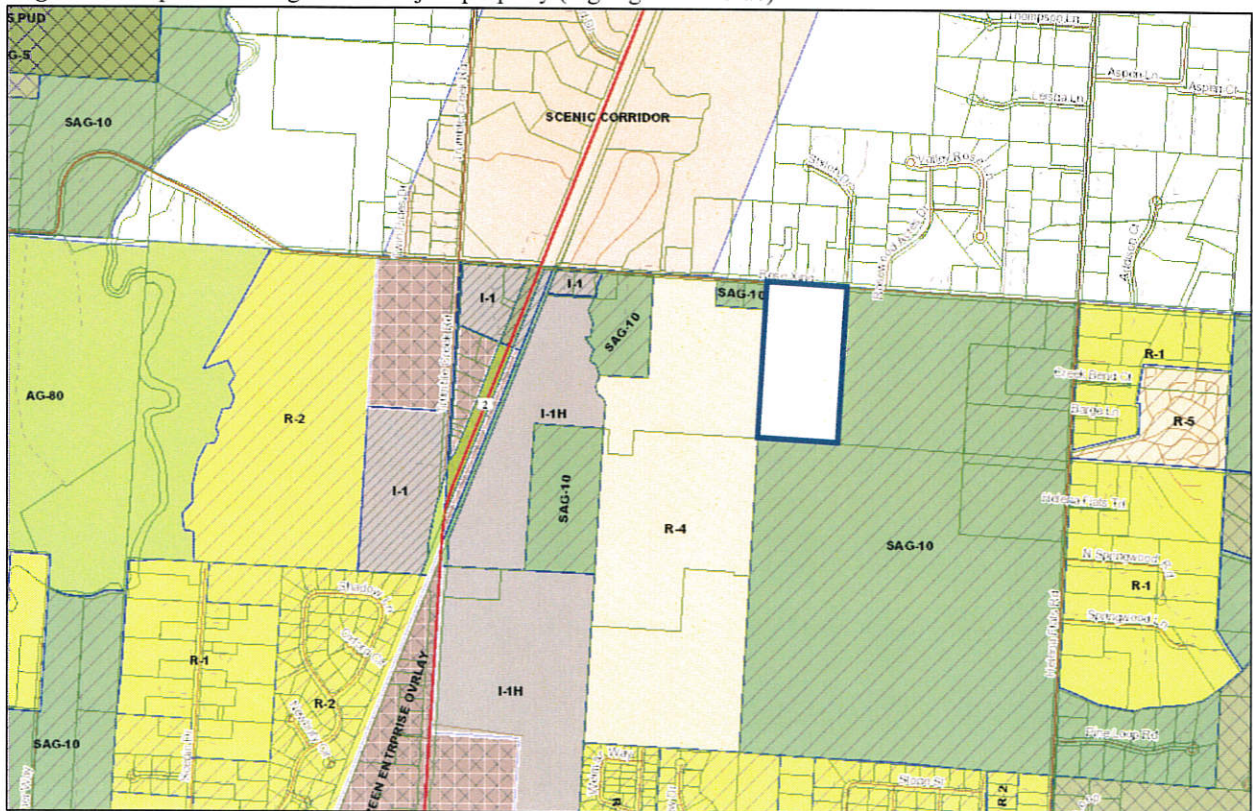


Figure 3: Proposed zoning on the subject property (highlighted in blue)

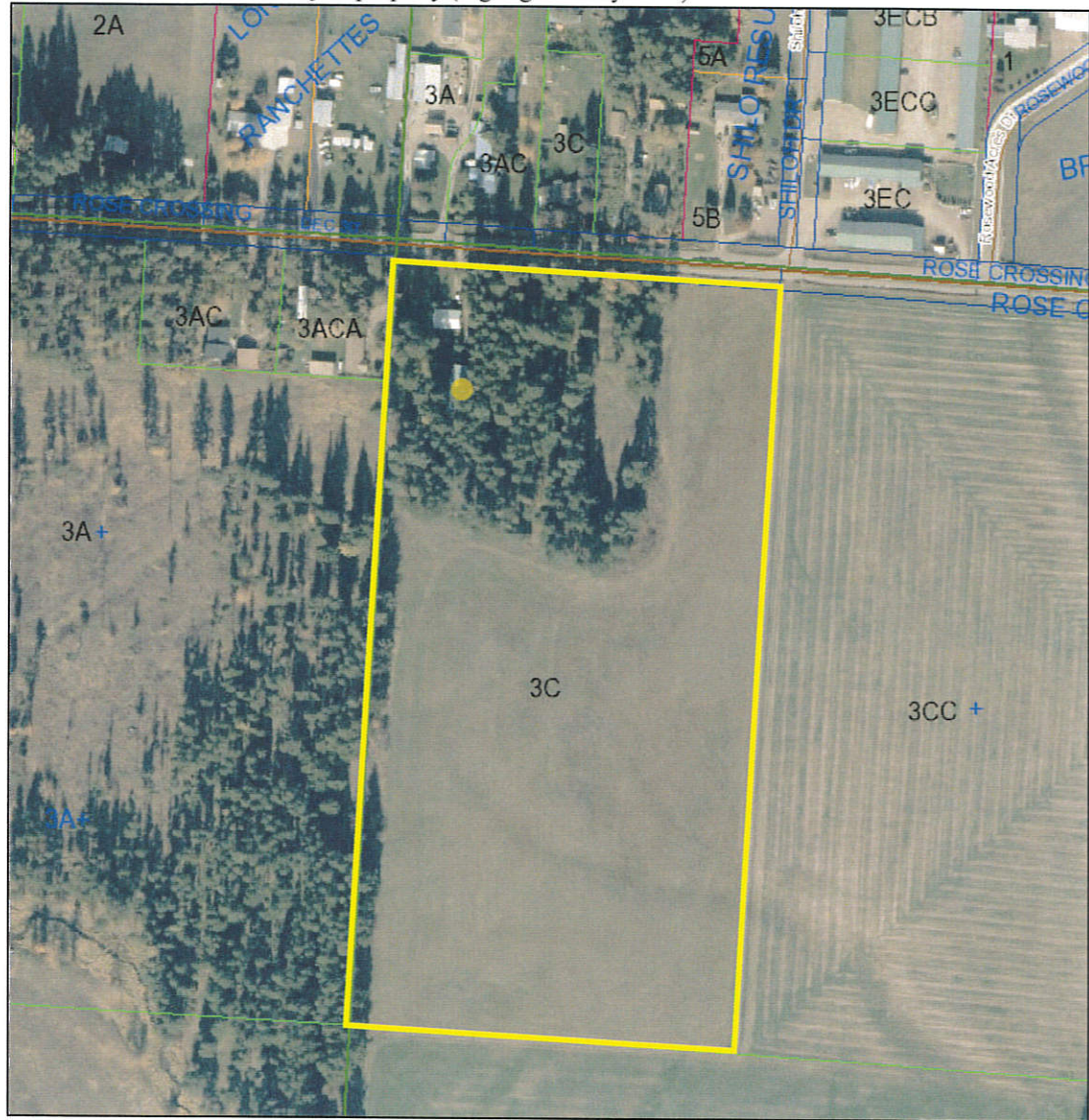


D. General Character of and Reason for Amendment

The property is relatively flat, and the northwestern corner of the property is heavily forested. The remainder of the property is open space and has historically been used for agriculture.

The applicant is requesting the zoning map amendment because “The subject property is now under the same ownership as the adjoining property and water/sewer services are becoming available from the south and west.”

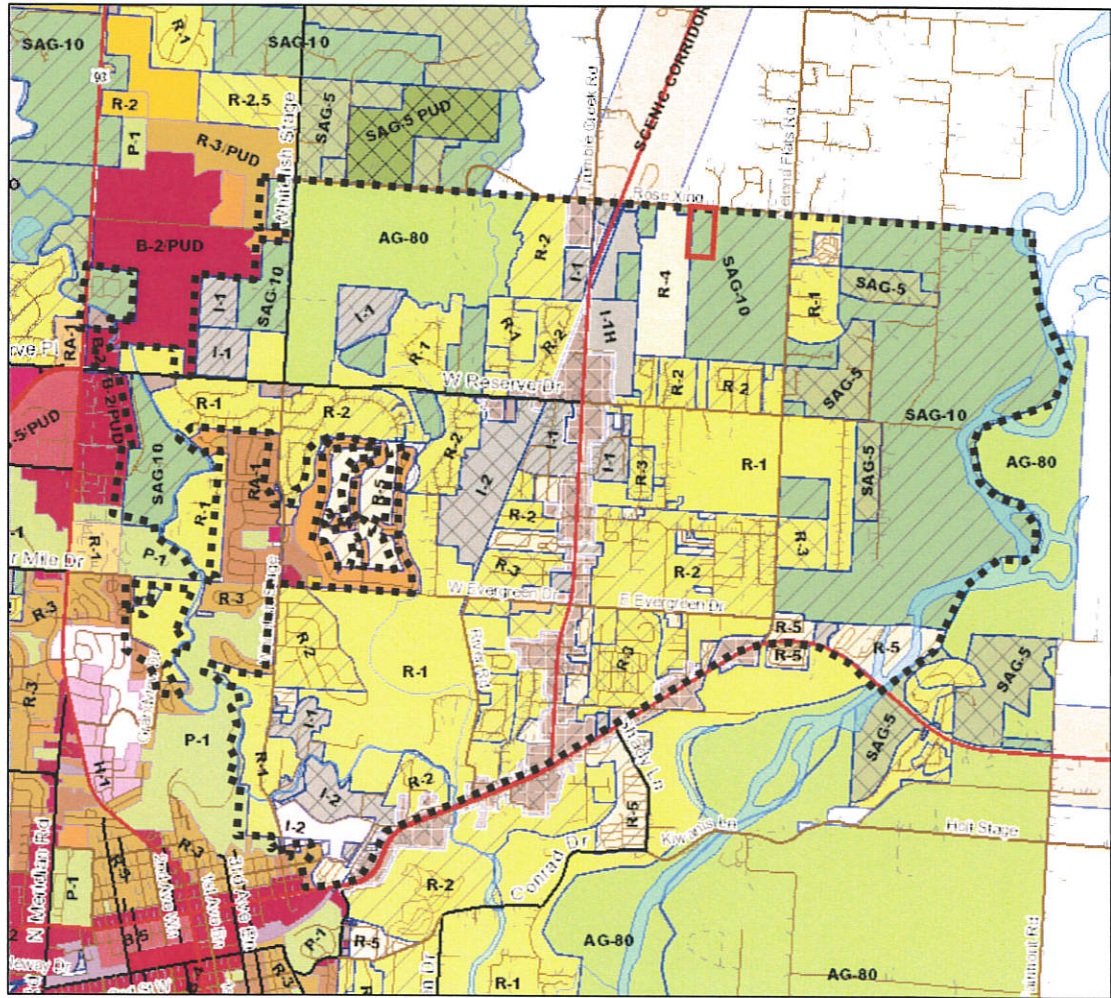
Figure 5: Aerial view of subject property (highlighted in yellow)



E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Evergreen Zoning District and surrounded by suburban agricultural and residential zones and un-zoned areas (see Figure 2). The subject property is bordered to the west by ‘R-4 Two Family Residential,’ and ‘SAG-10 Suburban Agricultural.’ East and south of the subject property is ‘SAG-10 Suburban Agricultural’ zoning. North of the property is unzoned.

Figure 6: Evergreen Zoning District (outlined with dashed black line & subject property outlined in red)



i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.

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difference between the existing and proposed zoning regards the applicable bulk and dimensional requirements, minimum lot size in the proposed R-4 zoning is 6,000 square feet for single family dwellings and 7,500 square feet for duplexes and all other uses, in comparison to the 10 acre minimum lot size of the current zoning.

The character of the area surrounding the subject property is a mixture of residential and agricultural. Southwest of the subject property is an approved residential subdivisions and the property is similarly zoned R-4. Trumbull Creek Crossing, Phase 1 Subdivision (to the southwest) has lots ranging in size from 5,195 square feet to 19,687 square feet, with the majority of the lots between 6,000 and 8,100 square feet. The minimum lot size permitted within the R-4 district is similar to the smaller lot sizes in the subdivision to the southwest. The permitted uses within the proposed zone are the same to the permitted uses in neighboring zoning to the west.

ii. The Zoning Applies To A Small Area Or Benefits A Small Number Of Separate Landowners.

The zoning map amendment would apply to three tracts of land owned by only one landowner. Using standard ArcGIS software the subject property is located within an approximately 290.96 acre SAG-10 district. Approximately 19.1 acres (6.6%) of the SAG-10 district is being proposed for a zoning map amendment. To the west of the subject property is an R-4 district approximately 110 acre in size. While the proposed R-4 zoning district would apply to one landowner, the proposed zone change would increase the existing R-4 zoning district to approximately 129.1 acres and therefore the proposal does not apply to a small area.

iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.

The property is owned by a single owner. The applicant is proposing an amendment to the Two Rivers Master Plan (FPMA-16-01) to add the subject property to the Two Rivers Master Plan and designate it as *'High Density 8+' on the Land Use Map*. A density of 8 dwelling units per acre would be an average lot size of 5,445 square feet. The minimum lot size within the R-4 designation is 6,000 square feet for single family dwellings and 7,500 square feet for duplexes and all other uses, which would generally be in-line with the proposed land use designation for the Two Rivers Neighborhood Plan. The proposed R-4 designation would comply with the Two Rivers Plan map land use designation if the master plan amendment is approved.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #1: The proposed zoning map amendment from SAG-10 to R-4 does not appear to appear at risk of spot zoning because the proposal to amend the Two Rivers Plan supports the zoning map amendment, the property is adjacent to R-4 zoning, the

minimum lot size in proposed zoning is similar to the lot sizes allowed in the existing zoning to the west and the uses allowed would not significantly differ from prevailing uses in the area.

F. Public Services and Facilities

Sewer:	Evergreen Water and Sewer District
Water:	Evergreen Water and Sewer District
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Helena Flats School District Flathead High School District
Fire:	Evergreen Fire District
Police:	Flathead County Sheriff's Office

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on May 20, 2016. Legal notice of the Planning Board public hearing on this application was published in the May 22, 2016 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

I. Agency Referrals

Referrals were sent to the following agencies on April 5, 2016:

- Bonneville Power Administration
- City of Kalispell Planning Department
- Montana Fish, Wildlife, and Parks
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Public Works/Flathead County Road Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Flathead High School District
- Helena Flats School District
- Montana DNRC

- Montana Department of Transportation (MDT)
- Evergreen Water and Sewer
- Evergreen Fire District

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for June 8, 2016 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: "BPA does not have any objections to the approval of this request at this time." Email dated April 12, 2016.
- Flathead City-County Health Department
 - Comment: "Further division of this property requires review under the Sanitation in Subdivision Act which addresses potable water supply, wastewater treatment and disposal, storm water drainage, and solid waste. An environmental consultant must be retained for this process." Letter received April 19, 2016.
- Flathead County Solid Waste
 - Comment: "The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission private hauler in this area." Letter dated April 22, 2016.
- Flathead County Road & Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on this proposal." Letter dated April 11, 2016.
- City of Kalispell Planning Department
 - Comment: "We don't have any comments regarding the zoning; however, please be aware of the following. The subject property lies outside of the Evergreen Sewer District boundary. Per the recently approved Sanitary Sewer Treatment Agreement (attached) between the City of Kalispell and Evergreen Sewer District, consent is required by the Kalispell City Council in order for the boundary to be expanded. The current Evergreen sewer boundary is located approximately ½ mile south the subject property. This new agreement supersedes the previous agreement which allowed for expansion of the boundary for usage of up to a total of 100,000 gallons per day within the Trumble Creek Development. If Council were to determine that they did not

want to expand the boundary it could affect the future density of the subject property that is allowed with R-4 Zoning.” Email dated April 14, 2016.

- Montana Fish, Wildlife and Parks
 - Comment: “Montana Fish, Wildlife & Parks has no comment with regard to the two requests for comment as listed above for the property at 998 Rose Crossing.” Letter received April 28, 2016.
- Montana Department of Transportation
 - Comment: “We do not have any comments regarding these proposals.” Email dated April 22, 2016.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

As previously stated, the subject property is currently zoned ‘SAG-10 Suburban Agricultural’ district is defined in Section 3.07.010 of the Flathead County Zoning Regulations (FCZR) as a, “*District to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*”

The following is a list of permitted uses in an SAG-10 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Cellular tower.*
3. *Class A and Class B manufactured home.*
4. *Cluster housing.*
5. *Dairy products processing, bottling, and distribution.*
6. *Day care home.*
7. *Dwelling, single-family.*
8. *Dwelling unit, accessory.*
9. *Guest house.*
10. *Home occupation.*
11. *Homeowners park and beaches.*
12. *Livestock.*
13. *Nursery, landscaping materials.*
14. *Park and publicly owned recreational facility.*

15. *Produce stand.*
16. *Public transportation shelter station.*
17. *Public utility service installation.*
18. *Ranch employee housing.*
19. *Riding academy, rodeo arena.*
20. *Stable, public and private.*

The following uses are listed as conditional uses in an 'SAG-10' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.**
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center.*
6. *Caretaker's facility.**
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Contractor's storage yard.**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Golf course.*
16. *Golf driving range.*
17. *Kennel, commercial.**
18. *Manufactured home park.*
19. *Recreational facility, low-impact.*
20. *School, primary and secondary.*
21. *Temporary building or structure.**
22. *Water and sewage treatment plant.*
23. *Water storage facility.*

Bulk and dimensional standards under SAG-10 zoning require minimum setbacks of 20 feet from the front, side, rear and side-corner property boundaries for all principal structures, while accessory structures require 20 foot setbacks from front and side-corner property boundaries and 5 foot setbacks from side and rear property boundaries. Additionally there are provisions for smaller setbacks for non-conforming lots when the width of the lot is less than 200 feet and 150 feet. Setbacks of 20 feet are required from streams, rivers and unprotected lakes that do not serve as property boundaries, and an additional setback of 20 feet is required from county roads classified as collector or major/minor arterials. The maximum allowable building height is 35 feet for all structures, and the permitted lot coverage is 20%.

The subject property totals 19.1 acres, with a minimum lot size of 10 acres under SAG-10 zoning, zero additional lots could be created.

ii. Proposed Zoning

The proposed zoning map amendment would change the zoning designation on the subject property to 'R-4 Two Family Residential.' R-4 is defined in Section 3.12 FCZR as a, '*District to provide lot areas for urban residential development. Development within the district will require all public utilities and all community facilities. A duplex is allowed in this district.*' The following is a list of permitted uses in an 'R-4 Two Family Residential' zone:

1. *Class A and Class B manufactured homes.*
2. *Day care home.*
3. *Dwelling, single-family.*
4. *Duplex.*
5. *Home occupation.*
6. *Homeowners park and beaches.*
7. *Park and publicly owned recreational facility.*
8. *Public transportation shelter station.*
9. *Public utility service installation.*

The following uses are listed as conditional uses in an 'R-4 Two Family Residential' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Beauty Salon and Barbershop.*
2. *Bed and breakfast establishment.*
3. *Cellular antenna & monopole.*
4. *Church and other place of worship.*
5. *Community center building operated by a non-profit agency.*
6. *Community residential facility.**
7. *Day care center.*
8. *Dwellings, cluster development.*
9. *Dwelling unit, accessory.*
10. *Electrical distribution station.*
11. *Golf course.*
12. *Manufactured home park.*
13. *Mini-storage, RV storage.*
14. *School, primary and secondary.*
15. *Temporary building or structure.**
16. *Water storage facility.*

The bulk and dimensional standards under R-4 zoning requires a setback for the principal structure of 20 feet for the front, rear and side-corner, and 5 feet from the side. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. A 20 foot setback is required from a stream, river and unprotected lake which do not serve as property boundaries. An additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The maximum allowable building height is 35 feet for all structures and the permitted lot coverage is 40%.

The minimum lot size in an R-4 zone is 6,000 square feet for single family dwellings and 7,500 square feet for duplexes and all other uses. Development standards anticipate approximately 30% of the total land area being allocated to infrastructure. Thus under the proposed zoning the subject property could potentially be divided in a manner resulting in approximately 97 single family lots or 155 duplex lots. However environmental constraints and subdivision requirements may preclude that number of units from actually being able to be developed.

In summary, the requested zone change from SAG-10 to R-4 has the potential to increase density, by approximately 155%, through subsequent division in the future. The bulk and dimensional requirements vary slightly from SAG-10 to R-4 and the zoning map amendment would allow uses that are typical of residential zoning districts and similar to uses that are allowed under the existing suburban agricultural zoning on the property and residential zoning of the surrounding areas.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally, the applicant is proposing to add the property to the Two Rivers Plan, which was adopted on June 28, 2005 by the Flathead County Commissioners (Resolution #1822A).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Suburban Agricultural.' The proposed Two-Family Residential zoning classification would appear to contrast with the current Agricultural designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, "This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map." Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff

to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be pertinent to the proposed zone change, to determine if the proposal complies with the Growth Policy

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The amendment would allow the owner to subdivide the property to similar lot sizes as the neighboring properties.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The R-4 designation would allow for densities of about 7.3 dwelling units per acre for single family and 11.6 dwelling unit per acre for duplexes, that density would require public services. Further discussion on public utilities is contained later in this report.
- ❖ **G.15** – *Promote a diverse demographic of residents.*
 - **P.15.1.** – *Encourage housing, employment, education and recreation to attract, support and maintain young families.*
 - The R-4 zone would allow for duplexes, single family dwellings and manufactured homes.
- ❖ **G.16** – *Safe housing that is available, accessible, and affordable for all sectors of the population.*
 - **P.16.4** – *Consider the locational needs of various types of housing with regard to proximity of employment, access to transportation and availability of public services.*
 - The R-4 zone would allow for duplexes, single family dwellings and manufactured homes and the proposed zone change is located within a ¼ mile from U.S. Highway 2 and has the potential to be served by public sewer and water.
 - **P.23.6** – *Support land use patterns along transit corridors that reduce vehicle dependency and protect public safety.*
 - The proposed zone change is located within a ¼ mile from U.S. Highway 2.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal's potential burden on transportation below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*

- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below
- ❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.*
 - The applicant is proposing to add the subject property to the Two Rivers Plan and designate the property as ‘High Density 8+’ on the Land Use Map. This designation would be the same as the designation as the neighboring property. This report contains further discussion on the Two Rivers Plan below.

Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the ‘Suburban Agriculture’ land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.

2. Two Rivers Plan

Because the applicant is proposing to add the subject property to the Two Rivers Plan (Plan), staff reviewed the proposal for compliance with the plan. The Plan is composed of policies and a land use map and serves as a localized planning tool for the Two Rivers area, and the Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level.

The proposed amendment to the Two Rivers Plan (FPMA-16-01) would add the subject property to the Plan area. And map the subject property as ‘High Density 8+’ on the Land Use Map. Development standards anticipate approximately 30% of the total land area being allocated to infrastructure. Thus under the proposed zoning the density on the subject property could be between 7.3 dwelling units per acre for single family and 11.6 dwelling units per acre for duplexes, which would comply with the proposed designation.

- ❖ **Policy 1** – *The Two Rivers Master Plan Amendment area is an area appropriate for urban expansion and development. Urban services and utilities will be identified by the county and be required to be available at the time of the first phase of development. No urban services will be required for rural designations.*
 - The proposed R-4 designation is intended to provide lot areas for urban residential development and the applicant will work with Evergreen Water and Sewer to obtain public water and wastewater.
- ❖ **Policy 2** – *It is encouraged that a specific development plan be proposed at the time any part of this area is rezoned. The proposal plan would include urban scale development and improvements and would identify*

the service providers. If the area is to be annexed, a development plan and petition to annex would have been filed.

- No specific development plan is being proposed for the property at this time.

❖ **Policy 3** – *The residential areas within the Two Rivers Master Plan Amendment should be designated to provide a residential density of up to four dwelling units per acre with a higher density being allowed with a provision for the open space and/or park areas as part of an integrated development plan.*

- This policy seems to conflict with the adopted land use maps because the ‘High Density 8+’ allows for 8 plus dwelling units per acre per the plan map.

❖ **Policy 4** – *Special consideration and opportunities should be provided to allow the creation of a variety of housing options that include single-family, two family, multi-family, and mobile home parks as part of an overall development plan.*

- The proposed R-4 zone allows for single family dwelling and duplex as permitted use and mobile home parks as a conditional use.

Finding #3: The proposed zoning map amendment appears to comply with the Two Rivers Plan because the applicant is proposing to annex the property into the Two Rivers Neighborhood Plan area, the proposed residential development would be compatible with the proposed future land use map designation of ‘High Density 8+’ and appears to be compatible with the policies of the Plan.

ii. **Whether the proposed map amendment is designed to:**

1. **Secure safety from fire and other dangers;**

The subject property is located within the Evergreen Fire District and the nearest fire and emergency response center is located approximately 2.5 miles southwest of the property on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency. The subject property is not located in the Wildland Urban Interface (WUI) or designated as County Wide Priority Area.

Primary access to the property is currently via Rose Xing. Rose Xing is a paved two lane county collector within a 60 foot easement. The northwestern corner of the property is forested but appears to be easily accessible from Rose Xing.

The subject property appears to be mapped as unshaded Zone X, an area determined to be outside the 0.2% annual chance floodplain on FEMA FIRM Panel 30029C 1420J.

Finding #4: The proposed map amendment would secure safety from fire and other dangers because the subject property is located within the Evergreen Fire District approximately 2.5 road miles from the nearest fire station, the

subject property can be accessed via Rose Xing, the property is not located within the 100-year floodplain and the property is not located in the WUI.

2. Promote public health, public safety, and general welfare;

The applicant has stated, “Despite a smaller minimum lot size, there are still required setbacks to be met, permitted uses and conditional uses that restrict the types of development permitted on the lot, permitted lot coverage and sanitation standards that must be met.”

As previously stated, the subject property is located within the Evergreen Fire District and located approximately 2.5 miles northeast of the nearest fire and emergency response center on U.S. Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency. The Flathead County Sheriff’s Department provides police services to the subject property.

R-4 zoning would allow for similar uses to what already exist in the area and more restrictive permitted land use than the current SAG-10 designation, therefore it is not anticipated to adversely impact public health, safety or general welfare. Applicability of permitted and conditional uses in the R-4 zone and the Flathead County Floodplain and Floodway Management Regulations would serve to protect and promote public health, safety and general welfare.

Finding #5: The proposed amendment would not have a negative impact on public health, safety and general welfare because the property is served by the Evergreen Fire Department, Flathead County Sheriff, future permitted uses would be more restrictive than the current zoning and other applicable regulations are in place to protect and promote health and safety.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Primary access to the property is currently via Rose Xing which is a paved two lane county collector within a 60 foot easement. Traffic counts taken by the Road and Bridge Department for Rose Xing in 2010 indicate an average of 1,447 vehicle trips per day east of U.S. Highway 2.

Within a typical subdivision on average 30% of the lot area is used for public infrastructure such as roads, therefore at full build-out it is anticipated that approximately 97 single family homes or 155 duplexes could be feasible. Based on projected land uses arising from the proposed zone change could likely generate, at a minimum, an additional 970 ADT. The proposed zone change could contribute to an increase of 67.0% ADT on Rose Xing if the subject property was subdivided into single family residential lots and more if it is divided into duplex lots.

It is anticipated that even though Rose Xing is paved two-lane county collector maximum subdivision build-out may adversely impact the level of service on the road without future improvements such as, turn lanes and signaled or controlled intersections. The applicant previously submitted a

Traffic Impact Study (TIS) with the approved subdivision application (FPP-13-04) which addresses impacts to the transportation system and the TIS indicates no improvements are needed in relation to traffic generated from the previous subdivision proposal. It is unclear if a new TIS for this property would indicate whether or not improvements are needed in relation to traffic generated. Comment received from the Flathead County Road and Bridge Department stated, "At this point the County Road Department does not have any comments on this proposal."

Comments from Environmental Health state, "Further division of this property requires review under the Sanitation in Subdivision Act which addresses potable water supply, wastewater treatment and disposal, storm water drainage, and solid waste."

The applicant has stated that the subject property will be serviced by public water and sewer from Evergreen Water and Sewer District. Currently the property is located adjacent to the Evergreen Water and Sewer District and would need to be annexed to be served by sewer and water. The R-4 district requires public utilities if developed to R-4 densities and therefore would need to be annexed into the Evergreen Water and Sewer District prior to any development of the property at such as scale.

Comments from the City of Kalispell Planning Department states, "The subject property lies outside of the Evergreen Sewer District boundary. Per the recently approved Sanitary Sewer Treatment Agreement (attached) between the City of Kalispell and Evergreen Sewer District, consent is required by the Kalispell City Council in order for the boundary to be expanded. The current Evergreen sewer boundary is located approximately ½ mile south the subject property. This new agreement supersedes the previous agreement which allowed for expansion of the boundary for usage of up to a total of 100,000 gallons per day within the Trumble Creek Development. If Council were to determine that they did not want to expand the boundary it could affect the future density of the subject property that is allowed with R-4 Zoning."

While the subject property is located within the Helena Flats and Flathead High School Districts, the proposed residential use would generate school children and have the potential to impact both school districts. Helena Flats Elementary Schools have seen a decrease in student enrollment over the last ten years of 6% and increase between 2014 and 2015 of 1%. Flathead High School District has seen an increase in student enrollment over the last ten years of 11% but no change between 2014 and 2015. No comments were received from the Helena Flats School District or Flathead High School District.

The zoning map amendment may impact the existing public park system because greater demand on existing parks may be created. According to the applicant, "County and neighborhood parks are also just a short walk or bike ride to access." Any subdivision done on the property would likely require park land dedication. The Flathead County Subdivision Regulations would

require 11% of the combined gross area of the land proposed to be divided into lots ½ acre or less to be dedicated. If the applicant chooses not to dedicate parkland the commissioners may accept cash donation in lieu of parkland.

Finding #6: While the proposal could result in an increase of traffic on area roads, the proposed zoned change appears to facilitate the adequate provision of transportation because any subsequent development on a large scale would require subdivision review through which traffic impacts would be mitigated as appropriate for the impacts attributed to the subdivision and it is adjacent to existing county roads and Highway 2.

Finding #7: The proposed zoning map amendment may not facilitate the adequate provision of water and sewerage because the proposed zone requires public utilities for large scale development and although the property is not currently within the boundaries of Evergreen Water and Sewer District, the subject property is directly adjacent to the Evergreen Water and Sewer District and would require annexation into the water and sewer district.

Finding #8: The proposed zoning map amendment would facilitate the adequate provision of schools and parks and other public requirements because the school districts did not indicate any concerns with the proposal, and parkland dedication would be required, as applicable, for future subdivision of the subject property.

iii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The subject property is currently developed with a single family dwelling. The proposed zoning map amendment has the potential to increase density on the subject property. Any additional lots created would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot size requirements of the R-4 zoning classification and all buildings would be under the maximum building height requirement of 35 feet. Permitted lot coverage within the R-4 designation is 40% and the minimum lot area is 6,000 square feet for single family dwellings and 7,500 square feet for duplexes and all other uses.

The bulk and dimensional standards under R-4 require a minimum yard requirement of 20 feet from the front, rear and side-corner yards, and 5 feet from the side, for principal structures. A minimum yard requirement for accessory structures within the R-4 designation is 20 feet from the front and side-corner and 5 feet from the side and rear. Bulk and dimensional requirements within the R-4 designation would provide for reasonable provision of light and air.

Finding #9: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the R-4 designation.

2. The effect on motorized and non-motorized transportation systems;

Primary access to the property is currently via Rose Xing. Rose Xing is a paved two lane county collector within a 60 foot easement. Traffic counts taken by the Road and Bridge Department for Rose Xing in 2010 indicate an average of 1,447 vehicle trips per day east of U.S. Highway 2.

Typical subdivisions use on average 30% of the lot area for public infrastructure such as roads, therefore at full build-out approximately 97 single family homes or 155 duplexes could be feasible. Based on projected land uses arising from the proposed zone change could likely generate, at a minimum of an additional 970 ADT. The proposed zone change could contribute to an increase of 67.0% ADT on Rose Xing if the subject property was subdivided into single family residential lots and more if it is divided into duplex lots.

Even though Rose Xing is paved two-lane county collector maximum subdivision, build-out may adversely impact the level of service on the road without future improvements such as, turn lanes and signaled or controlled intersections. Upon subdivision of the property, the applicant would be required to submit a TIS. It is unclear if a new TIS would indicate whether or not improvements are needed on Rose Xing. Comment received from the Flathead County Road and Bridge Department stated, "At this point the County Road Department does not have any comments on this proposal."

There is an existing bike/pedestrian facilities located along Rose Xing adjacent to the subject property, that extends from U.S. Highway 2 to Helena Flats Road. The applicant states, "There are numerous non-motorized bike/ped paths in the area that are already in existence, or to be completed with proposed development in the area. These paths go to the Helena Flats school to the County park."

Finding #10: Effects on motorized transportation systems appears acceptable because even though the proposal would increase traffic and affect the level of service on area roads, development on a large scale would require subdivision review through which traffic impacts would be studied and mitigated.

Finding #11: Impacts to non-motorized transportation systems are not anticipated because the property abuts an established public bike/pedestrian facility along Rose Xing which appears capable of accommodating non-motorized transportation generated by the proposal.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

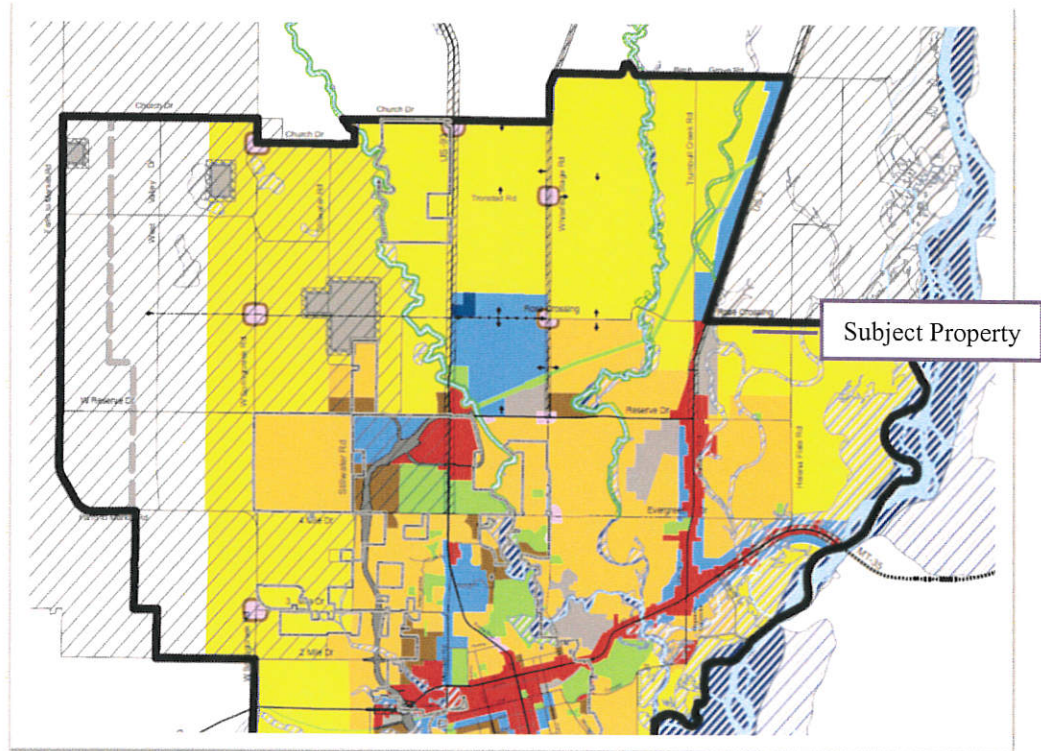
The property is not located directly adjacent to the City of Kalispell, and the nearest annexed area of Kalispell is located two miles from the subject property. According to the applicant, "This proposal is compatible with the urban growth in the general area. This is the continuation of an existing project for an established neighborhood."

While the City of Kalispell's Annexation Policy Map adopt on March 7, 2011 does not include the subject property, the Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009, designates the subject property as 'Suburban Residential' (see Figure 8). Staff discussed the discrepancy between the Future Land Use Map and Annexation Policy Map with the City and determined that the Future Land Use Map is a long term map meant for 50 year projections and the Annexation Policy Map is short term map meant for 5 year projections. Therefore, the property is not anticipated to be annexed by Kalispell in the immediate future.

According to a disclaimer on the Kalispell Growth Policy Future Land Use Map, "*Land use designations indicated on this map are only applicable when the property is proposed for annexation, and do not have any effect on lands under county jurisdiction with regard to zoning, density, subdivision or other land use decisions.*"

'Suburban Residential' is not defined within the Growth Policy however; Policy 9 in Chapter 3 discusses Suburban Housing which references the 'Suburban Residential' land use.

Figure 8: Northern portion of City of Kalispell Growth Policy Future Land Use Map (Property outlined in purple)



Policy 9 Suburban Housing states,

- "a. Densities should be appropriate to the limitations of the particular site, and should not exceed two to four dwellings per gross acre.*
- b. The suburban residential designation is intended to reduce density and development impacts in sensitive areas and existing rural neighborhoods.*

- c. *Single-family houses are the primary housing type.*
- d. *These areas should have paved streets, public sewer and water and access to services. New subdivisions located in or near Kalispell should generally include sidewalks where appropriate and installation of low intensity street lighting appropriate to the area."*

Chapter 3 Policy 2 of the Kalispell Growth Policy states, "Encourage the development of urban residential neighborhoods as the primary residential land use pattern in the growth policy area by allowing urban residential densities in areas designated as suburban residential provided the development is consistent with the character of the area and public services are adequate." The R-4 designation would allow for a density between 7.3 dwelling units per acre for single family residential and 11.6 dwelling unit per acre for duplexes when factoring in lot size and public infrastructure. This density is above the two to four dwelling units per acre called for in the Growth Policy. The 'Urban Residential' classification allows for densities between four and twelve dwellings per acre. Policy 2 would seem to support the proposed zone change because the R-4 designation would allow for urban residential densities, which is an allowed residential density within suburban residential when public services are adequate.

Finding #12: The proposed amendment appears to be compatible with the Kalispell Growth Policy Land Use Map because it designates the property as 'Suburban Residential' and neighboring properties are designated as 'Suburban Residential,' according to the language on the map the land use designations do not have any effect on lands under county jurisdiction and the Kalispell Growth Policy specifically contemplates allowing urban residential densities in areas designated as suburban residential when serviced by public utilities.

4. The character of the district(s) and its peculiar suitability for particular uses;

The application states, "If the proposal is successful, it will be similar in terms of use and compatibility with the Trumbull Creek Crossing neighborhood as this is an extension of existing R-4 zoning district boundaries and master-planned area. The density, building standards (if utilizing the Kalispell Sewage Treatment Plant, all infrastructure and buildings must be constructed to the City of Kalispell standards)." The subject property is bordered to the west by R-4 and SAG-10 and to the south and east by SAG-10 and north of the subject property is un-zoned land. The character of the area surrounding the subject property is a mixture of residential and agricultural.

The property has historically been used for agriculture and much of the surrounding properties to the east and west are agriculture. Areas north of the subject property are developed with smaller residential lots with some agricultural uses. Directly to the southwest of the subject property is a proposed subdivision with similar lots sizes to what would be permitted in the proposed zoning. The minimum lot size permitted within the R-4 district is very similar to the smaller lot sizes in the existing subdivisions south of the

property. The smaller lots allowed in the R-4 would be consistent with the character of the immediate vicinity of the subject property.

Finding #13: The character of the district where the proposed zone change would occur appears suitable for the uses in an R-4 zone because the property is located adjacent to other residential zones with similar lot sizes.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

According to the applicant, “Additional homesites will be created in the manner of the Trumbull Creek Crossing development at some point after that. [...]. Future development of that lot will continue to add value to the existing home and those within the immediate vicinity.” The properties are currently undeveloped and used for agriculture. The proposed ‘R-4 Two-Family Residential’ zoning designation would not affect the value of the existing homes or accessory buildings and improvements throughout the jurisdiction because the proposed zone does not include permitted or conditional uses which are incompatible with existing adjacent residential zones.

Surrounding the subject property are lands currently in agricultural production on the south, east and west. And north of the subject properties are developed with single family residential and accessory structures.

Within the vicinity of the subject property there is zoning of I-1, I-1H, SAG-10, R-1, R-4, R-5, SC and areas not zoned. The uses permitted within the R-4 designation are similar to what is permitted and what currently exists in the surrounding R-1, R-4, R-5 and SAG-10 designations. The area directly to the north that is not zoned includes a variety of land uses similar to those within the R-4 designation.

Finding #14: This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed designation allows for similar uses to the existing neighboring zoning and uses within the R-4 directly to the west.

iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The location of the proposed zoning map amendment is not directly adjacent to any city. The nearest municipality is the City of Kalispell, the city limits of which are located about two miles west of the property. The property is located within the City of Kalispell’s Growth Policy. The Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2009 shows the subject property as ‘Suburban Residential,’ and the nearest annexed areas are designated by the city as R-4/PUD and B-1/PUD.

According to the Kalispell Zoning Ordinance, a R-4 Residential District, *“This district is comprised of primarily single-family and duplex dwellings. Development within the district will require all public utilities, and all community facilities. This zoning district would typically be found in areas designated as*

urban residential on the Kalispell Growth Policy Future Land Use Map.” The proposed R-4 designation allows for uses similar to that of the City of Kalispell’s R-4 district. The application states, “Yes, the City of Kalispell is the nearest municipality, and it also has an R-4 zoning designation with similar lot sizes, bulk and dimensional requirements, and similar permitted/conditional uses.”

Comment from the City of Kalispell States, “We don’t have any comments regarding the zoning; however, please be aware of the following. The subject property lies outside of the Evergreen Sewer District boundary. Per the recently approved Sanitary Sewer Treatment Agreement (attached) between the City of Kalispell and Evergreen Sewer District, consent is required by the Kalispell City Council in order for the boundary to be expanded. The current Evergreen sewer boundary is located approximately ½ mile south the subject property. This new agreement supersedes the previous agreement which allowed for expansion of the boundary for usage of up to a total of 100,000 gallons per day within the Trumble Creek Development. If Council were to determine that they did not want to expand the boundary it could affect the future density of the subject property that is allowed with R-4 Zoning.”

Finding #15: The proposed map amendment appears to be compatible with the zoning ordinance of the City of Kalispell because the provisions of the proposed R-4 district are similar to the provisions of Kalispell’s R-4 district which is the municipal zoning designation nearest to the subject property.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment from SAG-10 to R-4 does not appear to appear at risk of spot zoning because the proposal to amend the Two Rivers Plan supports the zoning map amendment, the property is adjacent to R-4 zoning, the minimum lot size in proposed zoning is similar to the lot sizes allowed in the existing zoning to the west and the uses allowed would not significantly differ from prevailing uses in the area.
- 2) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the ‘Suburban Agriculture’ land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.
- 3) The proposed zoning map amendment appears to comply with the Two Rivers Plan because the applicant is proposing to annex the property into the Two Rivers Neighborhood Plan area, the proposed residential development would be compatible with the proposed future land use map designation of ‘High Density 8+’ and appears to be compatible with the policies of the Plan.
- 4) The proposed map amendment would secure safety from fire and other dangers because the subject property is located within the Evergreen Fire District approximately 2.5 road miles from the nearest fire station, the subject property can be accessed via Rose Xing, the property is not located within the 100-year floodplain and the property is not located in the WUI.

- 5) The proposed amendment would not have a negative impact on public health, safety and general welfare because the property is served by the Evergreen Fire Department, Flathead County Sheriff, future permitted uses would be more restrictive than the current zoning and other applicable regulations are in place to protect and promote health and safety.
- 6) While the proposal could result in an increase of traffic on area roads, the proposed zoned change appears to facilitate the adequate provision of transportation because any subsequent development on a large scale would require subdivision review through which traffic impacts would be mitigated as appropriate for the impacts attributed to the subdivision and it is adjacent to existing county roads and Highway 2.
- 7) The proposed zoning map amendment may not facilitate the adequate provision of water and sewerage because the proposed zone requires public utilities for large scale development and although the property is not currently within the boundaries of Evergreen Water and Sewer District, the subject property is directly adjacent to the Evergreen Water and Sewer District and would require annexation into the water and sewer district.
- 8) The proposed zoning map amendment would facilitate the adequate provision of schools and parks and other public requirements because the school districts did not indicate any concerns with the proposal, and parkland dedication would be required, as applicable, for future subdivision of the subject property.
- 9) The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the R-4 designation.
- 10) Effects on motorized transportation systems appears acceptable because even though the proposal would increase traffic and affect the level of service on area roads, development on a large scale would require subdivision review through which traffic impacts would be studied and mitigated.
- 11) Impacts to non-motorized transportation systems are not anticipated because the property abuts an established public bike/pedestrian facility along Rose Xing which appears capable of accommodating non-motorized transportation generated by the proposal.
- 12) The proposed amendment appears to be compatible with the Kalispell Growth Policy Land Use Map because it designates the property as 'Suburban Residential' and neighboring properties are designated as 'Suburban Residential,' according to the language on the map the land use designations do not have any effect on lands under county jurisdiction and the Kalispell Growth Policy specifically contemplates allowing urban residential densities in areas designated as suburban residential when serviced by public utilities.
- 13) The character of the district where the proposed zone change would occur appears suitable for the uses in an R-4 zone because the property is located adjacent to other residential zones with similar lot sizes.
- 14) This zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed

designation allows for similar uses to the existing neighboring zoning and uses within the R-4 directly to the west.

- 15) The proposed map amendment appears to be compatible with the zoning ordinance of the City of Kalispell because the provisions of the proposed R-4 district are similar to the provisions of Kalispell's R-4 district which is the municipal zoning designation nearest to the subject property.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with all the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.